

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

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In re:

BED BATH & BEYOND, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 23-13359 (VFP)

(Jointly Administered)

STIPULATION AND CONSENT ORDER MODIFYING THE PLAN INJUNCTION

The relief set forth on the following pages, numbered two (2) through six (6), is hereby
ORDERED.

¹ The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>.

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This stipulation and consent order (the “Stipulation”) is made by and between Penelope and Joseph Duczkowski (the “Claimants”), Safety National Casualty Corporation (“Safety”), and Michael Goldberg, in his capacity as the Plan Administrator (the “Plan Administrator,” to 20230930-DK-Butterfly-1, Inc. (the “Wind-Down Debtors”) (f/k/a Bed Bath & Beyond Inc. and affiliated Debtors, the “Debtors”)² The Claimants, Safety and Plan Administrator, by and through their undersigned counsel, shall be collectively referred to herein as the “Parties” or individually as the “Party.”

WHEREAS, on April 23, 2023 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”).

WHEREAS, on September 11, 2023, the Debtors filed the *Second Amended Joint Chapter 11 Plan of Bed Bath & Beyond Inc. and its Debtor Affiliates* [Docket No. 2160] (the “Plan”), and on August 1, 2023, the Debtors filed the *Amended Disclosure Statement Relating to the Amended Joint Chapter 11 Plan of Bed Bath & Beyond Inc. and its Debtor Affiliates* [Docket No. 1713] (the “Disclosure Statement”).

WHEREAS, on September 14, 2023, the Bankruptcy Court entered its *Findings of Fact, Conclusions of Law, and Order (I) Approving the Disclosure Statement on a Final Basis and (II) Confirming the Second Amended Joint Chapter 11 Plan of Bed Bath & Beyond Inc. and its Debtor Affiliates* [Docket No. 2172] (the “Confirmation Order”).³

² Pursuant to the Certificate of Amendment of the Certificate of Incorporation of Bed Bath & Beyond Inc., which was filed with the State of New York Department of State on September 21, 2023, the name of the entity formerly known as “Bed Bath & Beyond Inc.” was changed to 20230930-DK-Butterfly, Inc. [Filing ID No. 230921001833 DOS ID 315602].

³ A capitalized term used but not defined herein shall have the meaning ascribed to it in the Confirmation Order.

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WHEREAS, on September 29, 2023, the effective date of the Plan occurred (the “Effective Date”). On the Effective Date, the Plan Administrator became the sole representative of the Wind-Down Debtors and assumed responsibility for, *inter alia*, resolving claims, performing claims reconciliation, and objecting to claims.⁴

WHEREAS, on or about February 25, 2022, Claimants filed that certain lawsuit in the Superior Court of New Jersey, Law Division, Union County, styled as *Duczowski, et al. v. Bed, Bath and Beyond Inc., et al.* under case number L-580-22 (the “Lawsuit”), alleging, *inter alia*, certain personal injury claims against the Debtor Bed Bath & Beyond, Inc. (“BBBI”) as more fully set forth therein.

WHEREAS, on or about August 9, 2023, Claimants filed a proof of claim against Debtor BBBI in the amount of \$3,000,000 on account of the Lawsuit, which is listed as Claim 18851 on the Debtors’ claim register (“Claim 18851”).

WHEREAS, on or about November 11, 2023, Claimants filed that certain *Motion for Relief from Stay* [Docket No. 2679], which was later amended on November 28, 2023 at Docket No. 2723 (as amended, the “Stay Relief Motion”). The Plan Administrator and Safety oppose the Stay Relief Motion. *See, e.g.*, Docket Nos. 2760, 2987, 3065, 3299. The, *inter alia*, Stay Relief Motion has been continued from time to time, and is currently set to be heard on October 22, 2024.

⁴ *See* Plan, Article IV, at § B (“Except as otherwise specifically provided in the Plan and notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019, after the Effective Date, the Plan Administrator or the Wind-Down Debtors, as applicable, in consultation with the DIP Agent or FILO Agent, shall have the sole authority to File and prosecute objections to Claims, and the Wind-Down Debtors shall have the sole authority, in consultation with the DIP Agent or FILO Agent, to (1) settle, compromise, withdraw, litigate to judgment, or otherwise resolve objections to any and all Claims, regardless of whether such Claims are in a Class or otherwise; (2) settle, compromise, or resolve any Disputed Claim without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.”).

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WHEREAS, the Debtors deny the claims made by Claimants in the Lawsuit and Claim 18851.

WHEREAS, the Lawsuit was stayed by the filing of the chapter 11 petitions pursuant to Bankruptcy Code section 362 and subsequently by the injunction set forth in the Plan and Confirmation Order (the “Plan Injunction”).

WHEREAS, the Parties have agreed upon the terms set forth in this Stipulation, for which the Parties seek approval hereby.

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION THE PARTIES HERETO ACKNOWLEDGE RECEIVING, IT IS HEREBY STIPULATED, AGREED AND ORDERED AS FOLLOWS:

WHEREAS,

1. The recitals set forth above are hereby made an integral part of the Parties’ Stipulation and are incorporated herein.

2. The Plan Injunction is hereby modified solely for the purposes of allowing the Parties to engage in settlement discussions and to participate in a mediation (the “Mediation”) concerning the resolution of the Lawsuit and Claim 18851.

3. The Parties shall confer in good faith regarding the terms of the Mediation, including in the selection of the mediator thereof.

4. The Stay Relief Motion is hereby abated, *provided that* if the Mediation results in an impasse and following the filing of a notice of unsuccessful mediation on the Bankruptcy Court’s docket by the mediator (the “Impasse Notice”), the Claimants shall be entitled to set the

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Stay Relief Motion for hearing on no less than 10 days' notice following the conclusion of the Mediation and the filing of the Impasse Notice.

5. All Parties' rights concerning the Lawsuit, Claim 18851, the Stay Relief Motion, and any applicable insurance coverage or defense are hereby preserved in every respect and nothing herein shall modify or impair any such rights, defenses, or obligations.

6. Except for the relief expressly granted herein, nothing in this Stipulation shall amend or otherwise alter the terms and conditions of the Plan and/or Confirmation Order.

7. The Plan Administrator and his agents and any third parties are authorized and shall take all actions necessary to effectuate the relief provided by this Stipulation.

8. Each of the Parties hereto represents and warrants it is duly authorized to enter into and be bound by this Stipulation.

9. The terms and conditions of this Stipulation shall be immediately effective and enforceable upon entry of this Order by the Court.

10. This Stipulation shall not be modified, altered, amended or vacated without the written consent of all Parties and an order of the Bankruptcy Court.

11. The Bankruptcy Court retains exclusive jurisdiction and power to resolve any dispute arising from or related to the interpretation or enforcement of this Stipulation.

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Dated: October 18, 2024

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